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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM HORRY COUNTY

SC Court of Appeals

Court of Common Pleas

Honorable William Jeffrey Young, Presiding Judge

Case No. 2010-CP-26- 05964

Appellate Case No. 2013-000195

William H. Bailey, Jr. *Appellant,*

v.

City of North Myrtle Beach,
a South Carolina Municipal Corporation *Respondent.*

**THIRD SUPPLEMENT
TO THE RECORD ON APPEAL**

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STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN COURT OF COMMON PLEAS
2011-CP-26-06442

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SC Court of Appeals

William H. Bailey, Jr.,)

PLAINTIFF,)

vs.)

TRANSCRIPT OF RECORD

North Myrtle Beach, a South)

Carolina Municipal)

Corporation,)

DEFENDANT.)

September 19, 2012
Conway, South Carolina

BEFORE:

The Honorable Larry B. Hyman, Jr., Judge

APPEARANCES:

BY: Kenneth R. Moss, Esquire
Attorney for William H. Bailey

BY: Derwood L. Aydlette, III, Esquire
Attorney for North Myrtle Beach, a South
Carolina Municipal Corporation

BRENDA R. BABB
Circuit Court Reporter

Motions

13

1 that one last thing?

2 The Court: Yes.

3 Mr. Aydlette: The reason that we believe that
4 it is unfair to bifurcate it is because we have a situation
5 where we have a forty-five page verified complaint,
6 verified amended complaint. That verify amended complaint
7 is contradicted by evidence that's in the record that Judge
8 Culbertson has already ruled on for summary judgment
9 purposes. Because it's contradictive, the plaintiff has
10 sworn to things, the documentary evidence in the record
11 shows that you can't, you can't rectify. Judge Culbertson
12 denied the Motion for Summary Judgment on the fraud claim,
13 denied the Motion for Reconsideration on the fraud claim
14 and said there were questions of fact. And the reason that
15 it's important to have the fraud claim as part of the main
16 action is because, number one, the, there are seventeen
17 causes of action. The plaintiff has seventeen causes of
18 action. There are three counterclaims. What plaintiff
19 wants is to bifurcate one out of twenty causes of action.
20 That fraud claim, not only is the evidence that we would
21 introduce on the fraud claim relevant as to that claim,
22 it's also relevant as to the plaintiff's credibility which
23 is obviously at issue in this case, especially in the case
24 where the plaintiff was terminated for life.

25 The Court: Well, you know, I didn't say there

CERTIFICATE OF REPORTER

I, the undersigned Brenda R. Babb, Official Court Reporter for the South Carolina Court Administration, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal in the Court of Common Pleas for Horry County, South Carolina.

I do further certify that I am neither kin, counsel nor interest to any party hereto.

October 9, 2012

Brenda R. Babb

Brenda R. Babb, CVR

OFFICIAL REPORTER

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SC Court of Appeals

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY) 2013-CP-26-571

City of North Myrtle Beach,)	
)	
Plaintiff,)	Transcript of Record
)	
vs.)	August 28, 2014
)	
William H. Bailey, Jr.,)	
)	
Defendant.)	

B E F O R E :

Honorable Benjamin H. Culbertson
Georgetown County Courthouse
Georgetown, South Carolina

A P P E A R A N C E S:

Christopher W. Johnson, Esquire
Attorney for Plaintiff

Randall K. Mullins, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM-M
Circuit Court Reporter

1 individual fighting a lawsuit against the government.

2 MR. JOHNSON: Well, and, and here's the thing, Your
3 Honor, but it's not automatic.

4 THE COURT: And I agree it's not automatic.

5 MR. JOHNSON: The statute requires substantial
6 justification. Again, the standard for that is whether or not
7 a reasonable person would, would, would begin or continue it
8 based on the facts, and the facts that we had were, basically
9 we were getting completely inconsistent stories from Mr.
10 Bailey, who incidentally in this, and this is important, was
11 fired for lying. So the City's got good reason not to believe
12 what he's telling them and to begin with.

13 THE COURT: Well, as I understand, he was fired for lying
14 or the City said he lied to the grievance committee.

15 MR. JOHNSON: That's right. That's, that's right.

16 THE COURT: In other words, they, they, they disciplined
17 him. He requested a grievance hearing. He goes before the
18 grievance hearing, and the City administrator said he lied at
19 that grievance hearing.

20 MR. JOHNSON: Well, and that's on top of the fact that,
21 that, again, he had, he had lied before that in the press
22 releases that went out.

23 THE COURT: Well, I mean, that's --

24 MR. JOHNSON: And those are all issues in the other case.

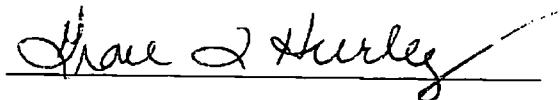
25 THE COURT: Those are disputed issues.

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C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of City of North Myrtle Beach versus William H. Bailey, Jr., held in the Court of Common Pleas for Horry County, Georgetown County Courthouse, Georgetown, South Carolina, on August 28, 2014.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Grace L. Hurley, CVR-CM-M
Official Reporter

October 9, 2014.

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SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Third Supplement to the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

**WRIGHT, WORLEY, POPE,
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November 18, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Honorable William Jeffrey Young, Presiding Judge

Case No. 2010-CP-26- 05964

Appellate Case No. 2013-000195

William H. Bailey, Jr. *Appellant,*

v.

City of North Myrtle Beach,
a South Carolina Municipal Corporation *Respondent.*

PROOF OF SERVICE

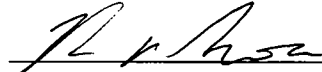
I certify that I have served the **Third Supplement to the Record on Appeal** on the Respondent, the City of North Myrtle Beach, by depositing a copy of it in the United States Mail with sufficient first-class postage affixed, on November 18, 2014, addressed to its attorneys of record at their address of record as follows:

Derwood L. Aydlette, III, Esq.
Christopher W. Johnson, Esq.
Gignilliat, Savitz & Bettis, LLP
900 Elmwood Avenue, Suite 100
Columbia, SC 29201
Attorneys for Respondent

*** *signature page follows* ***

Respectfully submitted,

**WRIGHT, WORLEY, POPE,
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November 18, 2014